

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS

CITIBANK, N.A., AS TRUSTEE,	)	2005	)
	)	0000	)
Plaintiff,	)	Civil No. _____	
	)	100	
v.	)	05	
	)	40045	
JOHN P. PHELAN, WENDY M. PHELAN,	)	PDS	
DAVID LABRIE, THE UNITED STATES	)		
OF AMERICA, O'CALLAGHAN	)		
CONSTRUCTION CO., and THE	)		
COMMONWEALTH OF MASSACHUSETTS	)		
DEPARTMENT OF REVENUE,	)		
	)		
Defendants.	)		

05-40045 PDS

UNITED STATES' REQUEST TO ENLARGE TIME TO ANSWER OR RESPOND

On, or about, March 11, 2005, the defendant United States of America removed this action to this Court. The defendant United States hereby respectfully requests this Court to enter an order enlarging, to and including April 11, 2005, the time in which the United States shall be permitted to serve an answer, a motion, or such other response as may be permitted by the Federal Rules of Civil Procedure, with respect to the complaint in the above-titled action.

No memorandum is submitted in support of this request as it is not a motion. As provided by Rule 6(b)(1) of the Federal Rules of Civil Procedure, the district court has discretion to grant requests to enlarge time "without motion or notice before the expiration of the period." (emphasis added) In contrast, Rule 6(b)(2) limits enlargements to the granting of motions made upon grounds of excusable neglect. Accordingly, here we are making a timely request under Rule 6(b)(1).

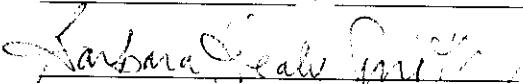
In making this request, we note that Rule 81(c) of the Federal Rules of Civil Procedure

governs the procedure in civil actions removed from the state courts to the United States District Courts. Rule 81(c) first provides that the Federal Rules of Civil Procedure apply to removed cases. The Rule goes on to prescribe certain periods for the service of an answer or other defenses. The governing time period under Rule 81(c) may be as short as five days after removal. Plaintiff's complaint is brought under 28 U.S.C. § 2410 as an action affecting property on which the United States has a lien. Pursuant to 28 U.S.C. § 2410(b), the United States may appear and answer, plead or demur within sixty days after service or such other time as the court may allow. See 28 U.S.C. § 2410(b). The undersigned trial counsel represents that more than five days are required to prepare and to serve an appropriate response raising the defenses of the United States. The period of additional time requested is commensurate with the sixty-day period permitted under 28 U.S.C. § 2410(b), as service was made on the United States on February 10, 2005.

Therefore, the United States requests the appropriate sixty-days in which to answer or otherwise respond to the complaint, up to and including April 11, 2005.

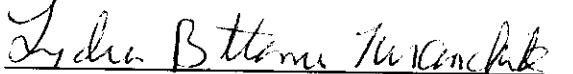
I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each other party by mail on

March 10, 2005

  
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Suite 9200  
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Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

  
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